

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CINDY BARBERA,
CARLENE BECHEN, ELVIRA BUMPUS,
RONALD BIENDSEI, LESLIE W. DAVIS,
III, BRETT ECKSTEIN, GEORGIA
ROGERS, RICHARD KRESBACH,
ROCHELLE MOORE, AMY RISSEEUW,
JUDY ROBSON, JEANNE SANCHEZ-
BELL, CECELIA SCHLIEPP, and TRAVIS
THYSSEN,

Plaintiffs,

v.

Case No. 11-C-00562

Members of the Wisconsin Government
Accountability Board, each only in his official
capacity: MICHAEL BRENNAN, DAVID
DEININGER, GERALD NICHOL, THOMAS
CANE, THOMAS BARLAND, and
TIMOTHY VOCKE,¹ and KEVIN
KENNEDY, Director and General Counsel
for the Wisconsin Government
Accountability Board,

Defendants.

DEFENDANTS' MOTION TO DISMISS AMENDED COMPLAINT

The defendants, the Members of the Wisconsin Government Accountability Board ("GAB"), Michael Brennan, David Deininger, Gerald Nichol, Thomas Cane,

¹Timothy Vocke was appointed to the Government Accountability Board on June 17, 2011, replacing Gordon Myse—one of the original named defendants. Plaintiffs have substituted Mr. Vocke in the caption of their most recent pleadings. Pursuant to Fed. R. Civ. P. 25(d), such substitution is automatic, but should be presented to the Court. Defendants seek such automatic substitution here.

Thomas Barland, and Timothy Vocke,² each in his official capacity only, and Kevin Kennedy, in his official capacity as Director and General Counsel for the GAB only, by their attorneys, J.B. Van Hollen, Attorney General, and Maria S. Lazar, Assistant Attorney General, hereby move this Court for a dismissal of the amended complaint in this action pursuant to Fed. R. Civ. P. 12(b)(1) (lack of subject matter jurisdiction) and Fed. R. Civ. P. 12(b)(6) (failure to state a claim upon which relief can be granted) as to the Third Claim. In the alternative, movants request that this Court defer to the State judiciary or that the Court abstain from taking this matter.

For the reasons more fully set forth in the accompanying Brief in Support of Motion to Dismiss Amended Complaint, the movants request that the Court grant their Motion to Dismiss this action in its entirety.

Dated this 4th day of August, 2011.

J.B. VAN HOLLEN
Attorney General

s/Maria S. Lazar
MARIA S. LAZAR
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²See footnote 1, *supra*.